

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:19-cr-28-SPC-MRM

MICHAEL P. ELLARD

ORDER¹

Before the Court is Defendant Michael P. Ellard's Motion for International Travel filed February 5, 2021 and Motion to Appoint Counsel and Set a Hearing. ([Doc. 65](#); [Doc. 69](#)). Both the Government and United States Probation oppose defendant's motion for travel, as outlined in the Government's Response in Opposition. ([Doc. 68](#)).

On December 16, 2019, the undersigned United States District Court Judge sentenced Michael P. Ellard to fifteen months incarceration followed by three years of supervised release for illegally transporting wildlife, in violation of 16 U.S.C. §§ 3372(a)(2)(A) and 3373(d)(1)(B). As part of the Judgment, the defendant [Ellard] was also ordered to pay \$56,000.00 in restitution to West Virginia Division of Natural Resources. ([Doc. 58](#); [Doc. 62](#)). Ellard was released from custody in July 2020, at which time his term of supervision commenced.

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

Ellard is now motioning the Court requesting permission to travel internationally for business purposes, which business is importing live animals into the United States from foreign countries. Ellard claims this is the only form of employment and his only source of income since 1981 and, according to him [Ellard], allowing him to travel internationally for such purposes would enable him to make substantial payment(s) toward the restitution balance.

The Government objects to the defendant's request for international travel. Advising that importing live animals into the United States requires the importer/individual to adhere to a number of stringent guidelines and regulations put in place by the United States Department of Agriculture Animal and Plant Health Inspection Services. This application process includes fees and costs that must be paid prior to receiving approval for such travel and transaction; these costs are separate and apart from the expense of international travel itself. And, as the Government points out, such costly expenses should not take precedence over the defendant's \$56,000.00 restitution obligation.

Ellard failed to make any payment(s) toward the restitution balance between July 8, 2020 and January 7, 2021. ([Doc. 63](#)). The United States Probation Office reports that Ellard has made only one payment of \$200.00 toward the restitution balance since his supervision commenced on July 8, 2020.

The Defendant's motion for travel does not address any of the aforementioned requirements nor does it advise if he has initiated the application process. In fact, Ellard provides no specific information as to the relief he requests. The motion does not provide a timeframe, a departure date, or an itinerary for travel, and contains no information as to the type of animals Ellard seeks to import into the United States, or where he will procure the animals.

The Court agrees with the Government and United States Probation. The defendant has not provided enough information or documentation to consider the relief he seeks, and thus, the Court denies the motion without prejudice.

Ellard is also requesting that the Court appoint a public defender and set a hearing on his motion for travel. (Doc. 69). Although Ellard's motion to travel is *related* to his criminal case and is filed in his criminal case, the actual issue at hand is not a criminal matter and presents no extraordinary circumstance that would justify the appointment of or entitle the defendant to a public defender in this matter.

Accordingly, it is now


ORDERED:

1. Defendant Michael P. Ellard's Motion for Miscellaneous Relief (International Travel) (Doc. 65) is **DENIED without prejudice**.

The defendant may file an amended motion providing additional information for the Court's consideration.

2. Defendant Michael P. Ellard's motion requesting a Public Defender be appointed to represent him and that a hearing be set on his motion to travel ([Doc. 69](#)) is **DENIED**.

DONE AND ORDERED in Fort Myers, Florida on March 1, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: Parties of Record